

New Jersey Commissioner of Education
Final Decision

Stephanie Angus,

Petitioner,

v.

Board of Education of the Borough of
Metuchen, Middlesex County,

Respondent.

Synopsis

Petitioner is a teacher in the Metuchen school district. In April 2021, petitioner was exposed to the Covid-19 virus and was advised by representatives of the respondent Board that, based on guidance from the New Jersey Department of Health and school nurses, she was required to quarantine for 14 days. Petitioner’s request to use accumulated sick leave for the days on which she did not work was denied, and she filed the within appeal. The parties filed opposing motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue in this case and the matter is ripe for summary decision; on April 6, 2021, petitioner reported to her building principal that she had been exposed to Covid-19; she was subsequently advised that due to the potential exposure, the New Jersey Department of Health guidance as well as the school nurses required that petitioner quarantine at home for fourteen days; petitioner’s request to use accumulated sick leave was denied and the respondent used petitioner’s personal and family illness days to cover the mandatory quarantine period. The ALJ concluded that petitioner was excluded from school by the recommendation of the school district’s medical authorities because of her possible exposure to Covid-19, a contagious disease; further, petitioner’s subsequent absence qualified as sick leave under the express provisions of *N.J.S.A. 18A:30-1*. Accordingly, the ALJ granted summary decision to petitioner and denied the Board’s cross motion.

The Commissioner concurred with the findings and determination of the ALJ herein. Accordingly, petitioner’s motion for summary decision was granted and the Board was directed to place petitioner on sick leave with pay for the period of April 7, 2021 to April 19, 2021, and to restore the personal and family illness time previously charged for that period.

<p>This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

20-22

OAL Dkt. No. EDU 05918-21

Agency Dkt. No. 91-6/21

New Jersey Commissioner of Education

Final Decision

Stephanie Angus,

Petitioner,

v.

Board of Education of the Borough of
Metuchen, Middlesex County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by the Metuchen Board of Education (Board) pursuant to *N.J.A.C. 1:1-18.4*, and petitioner Stephanie Angus' reply thereto, have been reviewed and considered.

Petitioner is a teacher who was exposed to the Covid-19 virus in April 2021 and was advised that, based on guidance from the New Jersey Department of Health and school nurses, she must quarantine for 14 days. Petitioner's request to use accumulated sick leave for the days on which she did not work was denied, and she appealed. Following cross-motions for summary decision, the Administrative Law Judge (ALJ) concluded that petitioner was excluded from school by the recommendation of the school's medical authorities because of her possible exposure to a contagious disease, and that her absence therefore qualified as sick leave pursuant to *N.J.S.A. 18A:30-1*.

In its exceptions, the Board argues that *N.J.S.A. 18A:30-1* does not apply because petitioner had not contracted a contagious disease, and because her quarantine was not due to a disease in her immediate household. In reply, petitioner argues that *N.J.S.A. 18A:30-1* does not require an employee to have a contagious disease, but only that she be excluded from the school by its medical authorities on account of a contagious disease.

Upon review, the Commissioner concurs with the ALJ that petitioner is entitled to use sick leave. The Commissioner does not find respondent's exceptions, which reiterate arguments made below that were considered and rejected by the ALJ, to be persuasive. The plain language of *N.J.S.A. 18A:30-1* defines sick leave, in part, as an absence because the employee "has been excluded from school by the school district's medical authorities on account of a contagious disease." While the Board interprets this language as requiring that the employee actually contract a contagious disease, the statute does not include that requisite. The Commissioner does not have the authority to mandate such a requirement when the Legislature did not include it in the express language of the statute. The phrase "on account of" is most commonly used to mean "because of"; here, the district's medical authorities excluded petitioner from school because of Covid-19, which is indisputably a contagious disease. Nor is it relevant that petitioner's exposure was not from a member of her immediate household, as that provision pertains to a different part of the definition of sick leave.

Accordingly, petitioner's motion for summary decision is granted, and the Board's motion for summary decision is denied. The Board is directed to place petitioner on sick leave with pay for the period of April 7, 2021 to April 19, 2021, and to restore the personal and family illness time previously charged for that period.

IT IS SO ORDERED.¹



ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 27, 2022

Date of Mailing: January 27, 2022

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION GRANTING

SUMMARY DECISION

OAL DKT. NO. EDU 05918-21

AGENCY NO. 91-6/21

STEPHANIE ANGUS,

Petitioner,

v.

BOARD OF EDUCATION OF THE

BOROUGH OF METUCHEN,

MIDDLESEX COUNTY,

Respondent.

Richard A. Friedman, Esq., for petitioner (Zazzali, Fagella, Nowak, Kleinbaum & Friedman, attorneys)

Ashley E. Malandre Esq., for respondent (Methfessel & Werbel, attorneys)

Record Closed: November 4, 2021

Decided: December 14, 2021

BEFORE **KIM C. BELIN**, ALJ:

STATEMENT OF THE CASE

Petitioner, Stephanie Angus, challenges respondent Board of Education of the Borough of Metuchen's (respondent or Board) decision denying her request to use sick

leave instead of personal and family illness leaves for a mandatory fourteen-day quarantine period because of exposure to a family member who tested positive for the Covid-19 virus.

PROCEDURAL HISTORY

In an email dated April 9, 2021, the respondent denied petitioner's request to reduce the fourteen-day quarantine period if she tested negative after ten days of being quarantined. The petitioner filed a petition dated June 8, 2021, with the Commissioner of Education (Commissioner). The Department of Education transmitted this matter as a contested case to the Office of Administrative Law where it was filed on July 13, 2021. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

On June 28, 2021, the respondent requested an extension until July 12, 2021, to file an answer or responsive pleading. On July 9, 2021, respondent filed a motion for summary decision with certifications in lieu of an answer. N.J.A.C. 6A:3-1.5(g). Petitioner filed a response and cross-motion for summary decision dated October 18, 2021.¹ Respondent requested a one-week extension to respond and filed a letter brief dated November 4, 2021, in opposition to petitioner's cross-motion for summary decision. The record closed on that date.

FACTUAL DISCUSSION AND FINDINGS

The following FACTS are undisputed and I, therefore **FIND**:

1. Petitioner is a tenured teacher employed by the respondent. (Petitioner's petition, ¶1.)
2. On April 4, 2021, petitioner was exposed to the Covid-19 virus. Id. at ¶2.

¹Petitioner's response and cross-motion was filed out of time pursuant to N.J.A.C. 1:1-12.5(b). However, the respondent did not object and a hearing date had not yet been scheduled.

3. Petitioner reported her exposure to her building principal on April 6, 2021. (Certification of Edward Porowski.)
4. Respondent advised that due to the potential exposure, the New Jersey Department of Health guidance and school nurses recommended that petitioner had to quarantine for fourteen days. (Petitioner's petition, Exhibit A.)
5. Petitioner was unable to work remotely because the respondent had only in-person programming for the 2020-21 school year. (Certification of Vincent Caputo.)
6. The respondent used petitioner's remaining seven and a half personal days, and a half family illness day for a total of eight days of leave to cover the quarantine period. (Petitioner's petition, Exhibit A.)
7. Petitioner received a negative test result on April 10, 2021. (Petitioner's Cross-motion for Summary Decision, Exhibit B.)
8. Petitioner returned to work on April 19, 2021.

LEGAL ANALYSIS AND CONCLUSIONS

A motion for summary decision may be granted if the papers and discovery presented, as well as any affidavits which may have been filed with the application, show that there is no genuine issue of material fact, and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5(b). If the motion is sufficiently supported, the non-moving party must demonstrate by affidavit that there is a genuine issue of fact which can only be determined in an evidentiary proceeding, in order to prevail in such an application. Ibid. These provisions mirror the summary judgment language of R. 4:46-2 (c) of the New Jersey Court Rules.

The motion judge must "consider whether competent evidential materials presented, when viewed in the light most favorable to the non-moving party . . . are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party." Brill v. Guardian Life Insurance Company of American, 142 N.J.

520, 523 (1995). And even if the non-moving party comes forward with some evidence, this forum must grant summary decision if the evidence is “so one-sided that [the moving party] must prevail as a matter of law.” Id. at 536.

The Commissioner of Education (Commissioner) is given jurisdiction to hear and determine, without cost to the parties, all controversies and disputes arising under the school laws, excepting those governing higher education, or under the rules of the State Board or of the Commissioner. N.J.S.A. 18A:6-9. Here, the petitioner challenges the respondent’s denial to use her accrued sick leave in accordance with N.J.A.C. 18A:30-1. Accordingly, the current controversy is appropriately before this administrative tribunal.

Petitioner herein asserts that her cross-motion for summary decision must be granted because she was absent from work because she was excluded from school by the school district’s medical authorities on account of a contagious disease or being quarantined for such a disease in her immediate household. As such, she was eligible to use her accumulated sick leave.

Conversely, the respondent contends that its motion for summary decision should be granted because petitioner was exposed to the Covid-19 virus by her nephew who is not a member of petitioner’s immediate family as required by the relevant sick leave statute.

I **FIND** there are no material facts in dispute and this matter is ripe for summary decision.

The statute at the heart of this controversy, N.J.S.A. 18A:30-1, provides:

Sick leave is hereby defined to mean the absence from his or her post of duty, of any person because of personal disability due to illness or injury, or because he or she has been excluded from school by the school district’s medical authorities on account of a contagious disease or of being quarantined for such a disease in his or her immediate household.

This statute contains three options that allow an employee to use sick leave. First, the employee can use sick leave if the employee is absent from work because of the employee's personal disability due to illness or injury. Second, the employee can use sick leave if the employee is excluded from school by the school district's medical authorities on account of a contagious disease. Third, the employee can use sick leave if the employee is quarantined for such a disease in his or her immediate household. Any one of these events entitles the employee to use unused accumulated sick leave.

Here, the petitioner qualifies for sick leave under the second option. She appropriately reported to her supervisor her exposure to a contagious virus. The superintendent stated in an email to the petitioner that the school's nurses were recommending quarantining for fourteen days. There is no dispute that the Covid-19 virus is contagious. There is no material factual dispute that the petitioner was directed not to work by the school district's nurses.

Thus, I **CONCLUDE** that the petitioner was excluded from school by the recommendation of the school district's medical authorities because of her possible exposure to Covid-19, a contagious disease. Accordingly, I **FURTHER CONCLUDE** that the petitioner's subsequent absence qualifies as sick leave under the express provisions of N.J.S.A. 18A:30-1.

ORDER

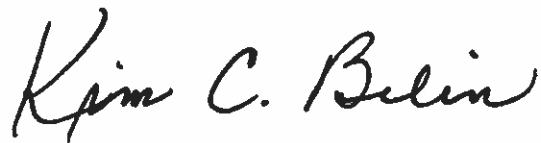
For the reasons set forth above, I hereby **ORDER** that the petitioner's cross-motion for summary decision is **GRANTED**. Accordingly, the respondent's motion for summary decision is **DENIED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of

Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



December 14, 2021

DATE

KIM C. BELIN, ALJ

Date Received at Agency:

December 14, 2021

Date Mailed to Parties:

December 14, 2021

KCB/lam

APPENDIX
WITNESSES

For petitioners:

None

For respondent:

None

EXHIBITS

For petitioner:

- Petitioner's petition of appeal, dated June 8, 2021
- Petitioner's cross-motion for summary decision, dated October 18, 2021

For respondent:

- Respondent's motion for summary decision, dated July 9, 2021
- Respondent's letter brief in opposition to petitioner's cross-motion for summary decision, dated November 4, 2021